

Fisheries Partnerships Agreements: will they be fair?

Development and Environment NGOs wish to see fair and sustainable partnerships between the EU and third countries, that promote the long-term viability of marine eco-systems and fish stocks, securing sustainable livelihoods and food security in third countries.

Therefore, NGOs welcome the communication from the Commission on new Fisheries Partnerships Agreements (FPA), in as much as it proposes to establish responsible fishing on a sustainable basis. This is an important shift from the more commercial approach applied up till now in EU-ACP fisheries relations. Of particular importance is the commitment to conduct sustainability impact assessments as an integral part of the FPAs.

However, the communication fails to take into account the conflict of interests that may exist between the two parties given the potentially contradictory objectives of these FPAs (which on the one hand wish to secure access to third countries waters, whilst on the other wish to promote sustainable fisheries). This needs to be clearly spelt out, and the political decision making process needs to establish how such conflicting interests can be resolved. Provisions also need to be put in place for public consultation both in the EU and in the third country that involve the primary stakeholders (i.e. fishing communities.)

Whilst the communication advocates a change of approach, it is short on concrete, operational actions. Our welcome to the communication is therefore cautious, and we reserve judgement until FPAs are put into practice.

Pre-requisite Conditions

Establishing an equitable framework for fisheries partnerships between the EU and ACP States for sustainable and responsible fisheries, and with both fisheries and development objectives, will require full transparency *viz à viz* access rights granted to other DWFNs.

It is therefore prerequisite for their success that FPAs are built into a wider fisheries and development framework that addresses the issue of foreign fleets as a whole (and not just restricted to EU fleets), whilst paying heed to the regional aspect of certain issues.

It is also important to recognise that there are some contradictory interests between the EU and developing countries, and that some political arbitration will be necessary to clarify the priorities. Therefore, there is a need for a wide ranging discussion of these issues (of contradictory interests) in the parliaments whilst consulting with the fisheries sector stakeholders. In the case of the ACP States, organising such a debate with proper participation must be supported by appropriate means.

It is also important that, if partnerships for sustainable fisheries are to be developed on a long term basis, the “access” component of the FPA must be temporary, and should decrease (and disappear) if and when the local capacity to exploit fisheries resources is developed. In particular, socio-economic and environmental impacts assessment studies should be made public and widely debated prior to any renewal of the FPA.

The Need for establishing guidelines

The EU has signed up to the (voluntary) FAO Code of Conduct for Responsible Fisheries and ratified the Compliance Agreement. To establish credibility and instil trust with its partners, the EU should conduct its distant water fisheries policy in a manner coherent with these agreements. In effect these agreements do not foresee that the conduct of the various members can alter from case to case. Therefore, it would seem desirable to draft some concrete guidelines for FPA rather than negotiate from scratch with each partner.

Based on the experience and shortcomings of current fisheries agreements, these guidelines would include the following aspects:

1. Resource Management

The rationale for EU-ACP relations is strongly driven by the EU's internal fisheries problems and issues (e.g. over-capacity and resource depletion problems, and securing supplies for its growing market (with raw material the priority, so that the benefits of adding value accrue to EU¹ Member States.

The surplus resources to which the EU fleets may have access is one of the first issues to be addressed in the Commission Communication on "Fisheries Partnership Agreements", and where there are potential contradictions between EU and third countries interests. But it is noted that the: *"relative weight of fishing opportunities becomes of secondary importance, with the main element being...in establishing responsible fishing on a sustainable basis."*

The potential contradiction arises because: *"wherever possible... the FPA shall support measures aiming at promoting the creation of joint ventures, transfer of technologies, investments and capacity management for the benefit of the fishing industry..."*. The Communication on FPAs then goes on to address the issue of the former "cash for access" fishery agreements, where *"financial compensation was based on the access to the fishing possibilities offered by the coastal state concerned"*. In the future, the *"financial contribution will be justified by a mutual interest of the two parties to invest in sustainable fisheries policy and not just as a payment for access rights to fishing possibilities for the benefit of European fishing enterprises"*.

The Commission *"considers that the financial contribution...cannot be considered as a subsidy to the European fishermen. For the future, the Community financial contribution will have to be regarded as investments for the improvement of responsible and rational fishing and therefore "based" on new considerations."* If this is the case, the amount of financial contribution invested should not be linked to the level of fishing possibilities given by the third state.

NGOs feel that:

- Fisheries partnerships need to respect the provisions of article 62 of the United Nations Convention on the Law of the Sea: *"Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements... give other States access to the surplus of the allowable catch"*.

- Fisheries partnerships also need to respect the provisions of the FAO Code of Conduct for Responsible Fisheries that deal with the Precautionary Principle (as in articles 6.5 and 7.5), conservation of fisheries resources and habitats (as in articles 6.1 and 6.8), and artisanal and small-scale fishing (as in article 6.18)..

Therefore:

- access to stocks that are already fully exploited or showing signs of over-exploitation (based on the best scientific advice available) should not be on the negotiating table.
- Where EU vessels have already been transferred through cash for access agreements, subsidised joint ventures or a second generation fisheries agreement, and where there is overfishing/overcapacity, the FPA should provide a possibility to remove these boats. A possibility would be to earmark a part of the financial compensation for a scrapping program that would remove the excess capacity previously transferred by the EU.

¹ Value adding operations may happen in ACP countries but still remain "EU owned". In the case of EU shrimp aquaculture projects in ACP countries for example (a capital intensive, non labour intensive activity), almost the total benefit flow generated by the activity remains in EU operators hands. Taxes on production are very low, and impacts on the coastal environment often mean a negative balance between the jobs created and the jobs destroyed.

- there should be a flexible adjustment of fishing possibilities on the basis of yearly resource assessments, taking into account the best available scientific information (in particular results of international/regional scientific committees meetings) and in accordance with the needs of the local fishing industry.
- Given their vital importance in many ACP countries, and given the social and political difficulties that would face developing States in case no action was taken, small-scale fisheries (artisanal/subsistence) should be protected (in particular by strict observance of an artisanal zone), in line with article 6.18 of the FAO Code of Conduct. The EU should proactively promote such zoning measures through the FPAs, as well as through other fisheries relations with developing countries.
- In order to promote good governance, the financial compensation allocated for fishing access should be clearly distinguished from the monies allocated for “investment in sustainable fisheries development” (i.e. in research, control, infrastructure development, etc) and put on separate budget lines. Under no circumstances should the reduction of fishing access lead to a reduction in monies allocated for “investment in sustainable fisheries development.” Furthermore, proposals for “investments in sustainable fisheries development” should be assessed by an independent body to examine whether they are in line with the sustainability objectives and ensure they will not lead to distortion of competition with local and small scale sector.
- A condition of accessing third country EEZs should be the use of selective fishing methods. The FAO Code of Conduct promotes the use of selective fishing practices (art. 6.6 and 8.5 of the Code). Training of the crew (EU and third state) in the use of selective fishing practices should be organised.
- In order to eliminate distortions in competition between fleets, EU public money used to provide compensation for the fishing access granted, should gradually be phased out to be replaced by private funding from the shipowners (with access rights auctioned publicly). Other subsidies are received by EU fleets (for modernisation, use of selective fishing gears, etc) which can also distort competition with the local sector in third countries. Therefore, in the preparation of negotiations, an independent evaluation needs to be carried out of the various subsidies received by the boats involved in the partnership, and appropriate compensation provided to the local fleets (or tax on the distant water fleet)..
- Support should be provided for national and regional efforts to combat IUU fishing in general and eliminate flags of convenience in particular. The EU must also take action in such harbours of convenience as Las Palmas, which provides significant incentives for IUU activities in West Africa.
- A regional approach to partnerships should be promoted to strengthen systems and capacities for collecting, processing and sharing data on catches, fish stocks, ecosystems, fishing effort, and the economic and social contribution of the fishery sector. In particular, the EU should support existing regional research initiatives involving national research centres and international bodies like FAO.
- Data collected should be made available to the public, in their aggregated form, to promote transparency, public debate and public control over the process.

Control/Surveillance:

Many ACP countries with fisheries agreements with the EU have large EEZs to police and control, and they often lack the material capacity to do so effectively. This leaves the door open to catch and by catch under-reporting.

Through the existing fisheries agreements, EU boat owners are able to evade meeting their obligations to embark an observer by paying a small compensation. Observers, when embarked, are directly paid by the boat owners, and not by an independent body. These are also reasons why control and

monitoring of EU fleets activities are difficult. The use of VMS, introduced in some of the last agreements, even if not a panacea, has been a positive step forward.

NGOs feel that measures for surveillance and control should be obligatory in all agreements.

In particular:

- The use of VMS should be systematically introduced and data collected should be made directly available in a timely fashion to both the EU and the third state (as described in the FAO COFI document (COFI/2001/Inf. 5) on the Implementation of the Code of Conduct).
- On board observer programmes should be compulsory (ensuring that no possibilities exist for circumvention).
- Observers should be paid through a public fund (to which EU ship owners should contribute); and not directly by the boat owner.
- Observers should be qualified to the same level of competence ("brevet"), ensuring the same level/quality of observership for all FPAs.
- By-catch reporting should be compulsory. But the priority should be to avoid discards through the use of selective fishing methods. It may be useful to look at existing experiences, like Namibia, where it is required that all bycatch is brought ashore with the shipowner being penalised if the by-catch levels are above quota. Discarding fish at sea is expressly forbidden
- Where EU vessels are involved in IUU fishing, the EU should make sure that Member States do not intervene to circumvent the penalties.
- the fragile habitats, necessary to regenerate marine resources must benefit from particular protection measures. Administrations in charge of marine protected areas management need to have the means to conduct research, surveillance and local development actions, in collaboration with the coastal communities living in these areas."

Optimising Post Harvest Arrangements

Even in cases where the "natural capital" is not under threat, the benefits generated by EU fishing operations still flow mainly to EU operators.

There are three main constraints to maximising local benefits that need to be addressed:

- compulsory landings: Although most of the fisheries agreements have provisions for local landings, very seldom these landings are obligatory (with notable exceptions like Senegal). The provisions of most fisheries agreements allow boat owners to evade the obligation to land fish through compensation payments. As the quality of landings is not stipulated, EU boats tend to land fish of lower value. For tuna landings, underreporting of catches and the lack of monitoring capacity in the third country make it difficult to prove how much has been caught within a country's EEZ and how much should be landed.
- Lack of onshore infrastructure: often, onshore infrastructure is insufficient to deal with the landings (cold chain, warehouses, etc), which constrains organising value adding activities.
- The EU is the main market for fisheries products for most of ACP countries having an EU fisheries agreement. Access to the EU market is increasingly conditional on meeting hygiene standards, which ACP states are not always able to comply with. This is a strong impediment to the development of export oriented value adding operations. This aspect is particularly important in cases where the local artisanal sector is a major exporter and supply the local processing industry

NGOs therefore feel that the following measures should be taken:

compulsory landings: Where local capacity to process fish caught by the EU exists, landings should be obligatory, with no possibility for evasion through compensation payments. Quality specifications should be established for the landings (type of fish, size, quality status, etc). Where the species landed are those traditionally caught and traded the artisanal sector, a socio-economic impact assessment should be carried out. If the result is negative, the FPA should contain specific provisions to prohibit the landing of such species.

- Lack of onshore infrastructure: Support should be provided to third countries that may wish to develop on-shore infrastructure and value-adding fish processing capacity. This should be linked to the phased introduction of obligatory fish landings.

- Compliance with Hygiene Standards: When species imported by the EU are caught by local fleets, help should be provided to comply with EU hygiene standards, particularly in the case of the artisanal sector. In the case of species not caught by local sector (tuna for example), support to processing plants to comply with hygiene standard should be coupled with increasing levels of obligatory landings.
- Effects of International Trade on Food Security: there needs to be an assessment on the potential impact of increasing the export trade of fish products on the food security of the local population in the third country. The negotiations of the FPAs should take advantage of the research and discussions being conducted by the FAO on this issue.

This position paper has been prepared by CFFA Secretariat (Coalition for Fair Fisheries Arrangements)